



# KYSEN Legal Business Innovation Watch



Welcome to the Spring 2016 edition of our *Legal Business Innovation Watch*, an e-update detailing recent press coverage of how the professional services community is responding to the major regulatory and other market change.

*Legal Business Innovation Watch* takes over from our *Legal Services Act Update*. Moving on from its original confines focusing on the immediate impact of the Legal Services Act, this new Update provides a wider perspective on the ongoing changes within the legal services sphere.

Please do give us your feedback, as ever.

Best regards,  
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**Press summary**  
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The last time a competition authority investigated the legal services sector, it led to the Legal Services Act, which has opened the market to non-lawyers and fragmented the regulatory framework.

Fifteen years on, the study launched by the [Competition and Markets Authority](#) takes place in a different environment where technology and lean regulation are part of the discussion from the start. The Legal Services Board, a creation of the Act, is [encouraging comparison websites](#) and advocating greater transparency on the part of frontline regulators. This opening of the market has already had an impact on solicitors, with the Law Society predicting a decline of those in private practice but a [rise in the number of those working in-house](#). At the Bar, too, many are acknowledging the effects of the new order, and the Bar Standards Board is finally talking about [becoming a licensing body](#) for advocacy-focused ABSs.

As many observers have anticipated, accountants are especially keen to get a slice of the legal services market. Having been approved as a probate regulator, the ICAEW is now considering whether to apply to be a licensing body in respect of [all reserved legal activities](#) in relation to tax advice.

Others are also interested in the sector, teaming up with lawyers to set up sector-specific ABS. NewLaw, owned by accident management specialists Redde, has just launched an ABS to provide [legal advice to nurses](#), while litigation funder Therium is in talks with a number of law firms to launch a [litigation ABS](#).

Meanwhile, creative lawyers are continuing to bend the ABS model to achieve new purposes. Several local authority legal departments have adopted it to offer services externally, with [four councils](#) in the South East of England about to join forces in this way. Whether this complies with the Code of Conduct is still to be [worked out with the SRA](#).

The innovation award, however, should go to southwest practice Stephens Scown, which has used the ABS model to set up a [John Lewis-type firm](#) allowing employees to share in the profits. It took three years for the SRA to approve it - a lot longer than the short two weeks it now takes to [wave LDPs through](#).

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## **COMPETITION – CONSUMERS – REGULATORY FRAMEWORK**

### **Competition watchdog to investigate legal services sector**

The Competition and Markets Authority has launched a market study into the legal services sector to examine “long-standing concerns about affordability and standards of service”.

Competition in the sector was last reviewed 15 years ago by the Office of Fair Trading and eventually led to the Legal Services Act 2007.

The CMA study will consider all legal services providers, whether regulated or not, and all areas except for criminal law work. It will cover services to individuals and small businesses, but not large businesses which are deemed to be more efficient at navigating the market.

Its main focus will be on whether consumers can drive competition by making informed purchases, have access to effective redress, and whether the current regulatory framework hinders competition in the sector.

An interim report is scheduled for July 2016, with a final report expected in December.

Source: [Legal Futures](#), 13 January 2016; [Competition and Markets Authority](#), 13 January 2016; [Legal Business](#), 13 January 2016

## **COMPARISON WEBSITES – REGULATORS – PRACTISING FEES - ACCOUNTANTS**

### **LSB business plan: comparison websites and practising fees**

Encouraging the development of comparison websites and pressure on regulators to be clearer about how they use the income they receive from practising fees are two of the main objectives listed in the Legal Services Board's draft business plan for 2016/17.

In a consultation on its plan started in January, the LSB said "consumers need reliable information to help them compare legal services before they can decide which to buy."

How regulators spend the legal profession's cash also features prominently in the plan, with frontline regulators being called on to explain how they treat any underspend of the practising certificate fees they collect, including analysis of the distinction between money raised for regulatory and non-regulatory activities. "Improvements are needed in this area in the interests of better regulation," the super-regulator said.

Source: [Legal Futures](#), 21 January 2016; [Legal Services Board](#), 20 January 2016

## **SOLICITORS – CAREER DEVELOPMENT – LAW SOCIETY**

### **In-house solicitors the new face of the profession**

More solicitors will be moving in-house and there will be fewer in private practice as a result of technological change and the growth in other legal professionals, according to a report by the Law Society.

"In-house lawyers are now seen at the forefront of devising complicated legal solutions, and are attracting a growing number of specialists from private practice into the sector," the society says in *The Future of Legal Services*, its survey of what the profession will look like in 2020.

Chancery Lane also predicts that there will be more mergers between smaller firms scaling up to ensure profitability. Meanwhile, the gap between senior and junior solicitors is also likely to widen, leading to an hourglass-shaped profession.

In a more competitive market, "characteristics such as curiosity, creativity and strategic thinking skills could assume far more significance in the selection of tomorrow's lawyers than purely technical legal knowledge," the paper concludes.

Source: [Law Society](#), 28 January 2016; [LawCareers](#), 12 February 2016

## **REGULATION – BARRISTERS – BAR STANDARDS BOARD**

### **Bar regulator becomes advocacy-ABS licensing body**

The Bar Standards Board has been approved by the Legal Services Board as a licensing body for advocacy-based alternative business structures, with first applications to be considered from 30 October.

The BSB made the application as part of a bid to support barristers in the context of increasing competition and a declining case load. It was disclosed alongside the publication of the BSB's strategic plan for 2016-19, in which the regulator outlines some of the challenges the Bar is facing, including pressure on fees and the expectation to regulate in the public interest.

The future of the Bar, the paper says, "will depend on the robustness and creativity of its response, the changes which government and the judiciary will bring into the administration of justice, and the speed with which consumers seek out alternative ways to address legal problems".

The BSB has also come out in support of the separation of regulatory and representative functions within regulators in principle, but is yet to finalise its position.

*Source: [Legal Futures](#), 8 February 2016; [Bar Standards Board](#), 22 March 2016; [Bar Standards Board](#), 30 March 2016; [Legal Futures](#), 30 March 2016*

## **REGULATION – RESERVED ACTIVITIES – ACCOUNTANTS**

### **Accountants in bid to provide legal services in reserved areas**

The Institute for Chartered Accountants in England and Wales is considering applying to the Legal Services Board to become an ABS licensing body that would allow its members to provide services in all reserved areas.

In 2014, the ICAEW became the first non-legal body authorised to regulate entities providing probate services. In a consultation launched on 12 February and running until 6 May, the accountants' regulator is seeking to expand its remit to other reserved areas – although only in relation to taxation matters.

"The ability of our members to expand their offerings to include legal services has already increased access for consumers, which is clearly in the public interest," said ICAEW executive director Vernon Soare.

The ICAEW is expecting opposition from solicitors. It has also hinted that it will continue to lobby for the extension of legal privilege to accountants.

*Source: [Economia](#), 12 February 2016; [Law Society Gazette](#), 12 February 2016*

## **ALTERNATIVE BUSINESS STRUCTURES - NURSES**

### **NewLaw expands ABS portfolio with Royal College of Nursing**

NewLaw, the legal services arm of AIM-listed Redde, the accident management specialists, has confirmed the launch of an alternative business structure with the

Royal College of Nursing, which became effective on 1 April. The firm set up a similar ABS at the end of last year with the British Medical Association.

Unlike BMA Law, which provides the full range of legal services including family law and private client advice, the new ABS will be limited to personal injury. Also, BMA Law is owned by the BMA through a trust, whereas RCN Law will be owned in equal share by NewLaw and the RCN.

Cardiff-based NewLaw was bought by the Redde group in 2014. The group has since developed a number of ABSs, such as fleet management group FMG, and says it is looking at opportunities with insurers.

Redde's interim results showed the group's turnover had increased 43 per cent to £165m.

Source: [Redde](#), 24 February 2016; [Public Law Today](#); 25 February 2016; [Legal Futures](#), 26 February 2016; [Law Society Gazette](#), 26 February 2016; [Legal Futures](#), 4 March 2016

## **LITIGATION FUNDING – ALTERNATIVE BUSINESS STRUCTURES**

### **Therium in talks with potential ABS partners**

Litigation funder Therium Capital Management is in talks with a number of law firms about launching a joint alternative business structure, including litigation and private client boutique Harcus Sinclair, with whom it already has a close relationship.

Harcus Sinclair disputes head Damon Parker, who is running the Therium-funded Lloyds shareholders' case, said setting up an ABS "would allow us to get cases and run them without having to go back and forth with funders and committees over financing."

Therium would follow in the footsteps of funding giant Burford Capital, which was granted an ABS licence in January, paving the way to funding its own law firm. The following month, Capital Law became the first law firm to launch its own fund with a third-party funder.

Source: [The Lawyer](#), 18 February 2016

## **ALTERNATIVE BUSINESS STRUCTURES – LOCAL AUTHORITIES**

### **Councils prepare ground for new local-authority ABS**

Four local authorities in southern England are teaming up to create a joint venture in an attempt to make savings and increase revenue in anticipation of further budget cuts.

Orbis Public Law is initially being set up as a shared legal service by Brighton & Hove City Council, East Sussex, Surrey and West Sussex County Councils. The partnership became operational on 1 April 2016. An alternative business structure will be set up separately.

The new initiative will absorb members' own work at peak times and is also expected to generate its own workload and income. At present the four legal

teams generate about £1.5m in external income from services provided to other public sector organisations.

There are only three local authority-owned ABSs at the moment: HB Public Law, Buckinghamshire Law Plus and LGSS Law (see *Kysen's Legal Services Update, Winter 2015*). Essex County Council is considering plans for Essex Legal Services to apply to the Solicitors Regulation Authority for an ABS licence.

Source: [Local Government Lawyer](#), 9 February 2016; [Legal Futures](#), 15 February 2016

## **REGULATION – RESERVED ACTIVITIES – LOCAL GOVERNMENT**

### **Local government lawyers at odds with regulator over reserved activities**

Local government lawyers have reached a stalemate with the Solicitors Regulation Authority over the limitations on their ability to provide reserved activities to external organisations and individuals.

Rule 4 of the Practice Framework Rules sets up restrictions on in-house practice, which some say is forcing local authority legal teams to set up ABSs. In February, the Lawyers in Local Government Group obtained a QC's opinion on the issue.

"Senior colleagues are currently considering the implications of the advice received from senior counsel and how best to take matters practically forward, including with the SRA and other regulatory authorities," a spokesperson for the LGG said.

The SRA has been looking at amending Rule 4, which it has said is "cumbersome at best", and is considering the possibility of waivers.

Source: [Legal Futures](#), 19 February 2016

## **ALTERNATIVE BUSINESS STRUCTURES – EMPLOYEE OWNERSHIP**

### **Southwest practice becomes first 'John Lewis' law firm**

Southwest firm Stephens Scown is pioneering a new ABS model where the practice remains a partnership but allows employees to share in the business's profits.

Unlike most ABSs, who are bringing in non-lawyers or external investors, the LLP will bring in a new member, Stephen Scown Limited, a company owned by the firm's staff through an employee benefit trust.

Managing partner Robert Camp said it was the first time the SRA was dealing with this kind of structure and that it took three years to get it approved.

From 1 May 2016, the start of the firm's new financial year, 50 per cent of the firm's profits above a certain threshold will be paid into a bonus pot to be shared by the staff.

Source: [Law Society Gazette](#), 4 March 2016; [Legal Futures](#), 7 March 2016

## REGULATION – ALTERNATIVE BUSINESS STRUCTURES

### LDPs converting to ABS within two weeks

It is now taking two weeks on average for legal disciplinary partnerships to convert to alternative business structures, it has emerged.

“If we already have all the relevant information about the firm, it doesn’t take long,” a spokesperson for the SRA told *Legal Futures*, confirming that two weeks had become the average for awarding ABS licenses to LDPs. Non-LDP firms, he added, were now being approved “well within” the three-month target.

The comments were made as the SRA, which has now approved 460 ABSs, moved one of the first 10 LDPs in the country, Fowler de Pledge, across to an ABS.

A few days earlier, the SRA also approved Beaumont Legal, one of the UK’s largest conveyancers, which was bought by US online legal services provider LegalZoom in December last year (see *Kysen’s Legal Service Update, Winter 2015*).

Source: [Legal Futures](#), 17 February 2016

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